

REMARKS

Claims 1-21 have been subject to a restriction requirement under 35 U.S.C. § 121 to a single invention as identified by the groups that follow:

- I. Claims 1-17, drawn to a method of identifying compounds that modulate orexin activity, kits used for the claimed method, and compounds produced by the method.
- II. Claims 18-21, drawn to a method of treating a patient using an orexin agonist or antagonist.

Applicants elect Group I, claims 1-17, without traverse for examination on the merits. Applicants elect Group I without traverse insofar as the groups are directed to patentably distinct inventions. Applicants believe that a typographical error exists on page 3, paragraph 4. The examiner stated on page 2 that a species election is required if Group II is chosen. A species election does not appear to be required for elected Group I.

Claims 1-17 are pending. Claims 18-21 are cancelled without prejudice to pursuing the cancelled subject matter in a divisional application. The application should be in compliance with the final rules on claims and continuations published in the Federal Register on Tuesday, August 21, 2007. The claims of Group I are within the prescribed limit of 5 independent claims and 25 total claims in the application. The new rules did not become effective on November 1, 2007 as a result of the temporary restraining order issued in *SmithKline Beecham Corp. et al. v. Jon W. Dudas et al.*, case number 07-cv-01008, U.S. District Court, E.D., Virginia.

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PATENT

Applicants respectfully request prompt examination on the merits of the elected invention. If the Examiner believes that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided. Favorable consideration and an early notice of allowance are respectfully requested.

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